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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RFA 244/2026, CM APPL. 16903-16906/2026

SACHIN TYAGI

.....Appellant

Through: Appearance not given.

versus

SH. RAJ KUMAR & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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18.03.2026

1. Regular First Appeal under Section 96 of CPC has been filed on behalf of the *Appellant Sachin Tyagi* against impugned Judgment dated 25.04.2025, whereby learned District Judge has rejected the Suit of the Plaintiff / Appellant for Partition and Permanent Injunction, under Order VII Rule 11(a) of CPC.
2. Appellant / Plaintiff had claimed that his grandfather Sh. Malkhan Singh along with his two brothers Sh. Uday Raj and Sh. Jaswant, had purchased the Suit Property bearing *No.Khasra No.326, bearing no. As 1/3 shares in khasra no. 326, ad-measuring area of 478 sq. Yards, built up property up to first floor falling the village Burari Delhi -110084 (herein referred as the "suit property")*.
3. This Property was divided between three brothers and Malkhan Singh became the owner of his share, in his individual capacity.
4. Malkhan Singh died in the year 1999 and was survived by his five sons namely, *Late Sh. Bhim Singh, Late Sh. Ram Kishan, Late Sh. Mahender*



Singh, Late Sh. Surinder Singh and Sh. Raj Kumar, his father (Defendant No.1/Respondent No.1) *and his wife Smt. Seema Tyagi* (Defendant No.2/Respondent No.2).

5. The Plaintiff explained that vide Notification dated 22.07.1971, the Suit Property was declared in the category of *Extended Lal Dora*. The ancestral Property is part of the Property of new land bearing *Kewat No.117 & 55 (old Kewat No.459, 301, 302, 19, 512 /6)* of Appellant's grandfather, which was the agricultural land in the year 1980-81.

6. The registered Relinquishment Deed dated 16.12.1998 had been executed by the brothers in favour of Defendant No. 1, as a mutual settlement of the Property. The Plaintiff claimed that he and his family members were a joint family living together.

7. The Plaintiff further submitted that he had filed a *Suit for Permanent and Mandatory Injunction* before learned Civil Judge, Delhi, which was withdrawn by him on 08.01.2013.

8. Sh. Raj Kumar, Defendant No.1/Respondent No.1, had filed an Injunction Suit bearing OS No.304/2014 dated 31.05.2014 tiled as *Rajkumar vs. Sachin Tyagi*, before learned Civil Judge, Hasanpur, Amroha, U.P., *which was dismissed in default and he did not take any further steps for restoration of the same.*

9. The Plaintiff had lodged one *FIR bearing No.211/2014* against Defendant No.1 at P.S. Mandi Dhanaura, District Amroha, U.P. because of illegal acts of done by Defendant No.1, which is pending investigation.

10. On 21.02.2019, the Plaintiff / Appellant filed the present Suit bearing No.CS DJ 174/2019 for *Partition, Possession and consequential relief.*

11. The Respondent / Defendant No.1, who is the father of the Appellant,



filed the **Written Statement**, wherein a *preliminary objection* was taken that the Plaintiff has failed to disclose the complete facts, as there was earlier a Civil Suit for Mandatory and Permanent Injunction filed by the Plaintiff, wherein he alleged that the Suit Property is ancestral, being earlier owned by Sh. Malkhan Singh, their grandfather, who died in the year 1999. The talks for settlement did not materialise and thereafter, Plaintiff did not pursue the Suit, which was permitted to be withdrawn by the Plaintiff, subject to cost of Rs.1,500/-.

12. The issues involved in the present Suit are identical to the one which were pleaded in the Suit withdrawn by the Plaintiff. Therefore, this Suit is not maintainable.

13. It was further asserted that the Suit is *barred by limitation*, as under the garb of Partition with Possession and Consequential Relief, the same Suit has been filed after more than six years, from the date when the parties refused to accept the ownership of the Plaintiff.

14. It is further claimed that no documents have been filed to show that late Sh. Malkhan Singh, father of Defendant No.1 and grandfather of Plaintiff, was the owner of the Suit Property, admeasuring 480 square yards. On this ground itself, the Suit is liable to be dismissed.

15. *On merits*, it was asserted that Defendant No.1 was the owner of Property to the extent of 120 square yards, which he along with his three brothers Sh. Bhim Singh, Sh. Mahender Singh and Sh. Surinder Singh, had purchased from the previous owner. Later, the brothers transferred their share in the property, in favour of Defendant No.1 vide Relinquishment Deed. Under these circumstances, Defendant No.1 is the owner of Suit Property, which he had purchased himself and the other three brothers, who



had transferred their shares in his favour. There is no documentary proof to show that the Suit Property which is in possession of Defendant No.1, was ever purchased by Sh. Malkhan Singh or he had any concern with the Suit Property. In fact, Defendant No.1 had purchased this Property from his own funds and no part of the Suit Property came from late Sh. Malkhan Singh.

16. The Plaintiff had previously filed forged and fabricated documents in the Court of Learned Civil Judge, and the Plaintiff was directed to file original documents of the Rent Agreement and other documents, as was stated by the Plaintiff in the Suit. Thereafter, the Plaintiff had withdrawn the Suit under Order XXIII Rule 1 CPC. He is in fact, liable to be prosecuted under Section 195 CrPC.

17. The Suit was also liable to be dismissed under Section 91 Indian Evidence Act. It was claimed that the Plaintiff was in a habit of filing false and frivolous Suits, and the Suit of the Plaintiff was liable to be dismissed.

18. *Learned District Judge vide impugned Judgement dated 25.04.2025,* noted that there was no proof of any joint family or of the Suit Property being H.U.F. Furthermore, it was shown to be the Property of Defendant No.1, who is the father of the Plaintiff and during his lifetime, the Plaintiff had no right to claim partition of the Property owned by his father; ***the Suit of the Plaintiff was thus, rejected.***

19. Aggrieved by the said Judgement, present Appeal has been preferred. The **grounds of challenge** are that it has not been appreciated that Appellant is the fourth degree and the Suit Properties had never been partitioned in accordance with law. The Plaintiff / Appellant had categorically asserted that the entire properties including the Suit Properties, are in the name of the ancestors, for which Khatauni was attached along with a list of



documents, which prevail over the admissions made in the pleadings.

20. The defendant had clearly averred that the properties mentioned in the Plaint, were in possession of other coparceners, but the division between the three lineal descendants had never taken place. The Judgement of the learned District Judge was contrary to the facts as stated in the Plaint.

21. Learned District Judge erred in the evaluations of the precedents, by taking it to be the prejudice of the Appellant, as the self-acquired property on the basis of the Plaint, without considering the documents. It has not been appreciated that the Principles regarding Self Acquired Property, have been considered without appreciating that it was indeed a coparcenary Property. The facts have not been appreciated in the right perspective and the impugned Judgement is liable to be set aside.

Submissions heard and record perused.

22. It is the case of the Plaintiff himself that the Property in question was originally owned by Sh. Malkhan Singh along with his two brothers Sh. Uday Raj and Sh. Jaswant Singh. It was further stated in the Plaint itself that three brothers divided the Property and ***Sh. Malkhan Singh became the exclusive owner of the Suit Property.*** Sh. Malkhan Singh died in the year 1999 and thereafter, the Property devolved upon his five sons, in accordance with Section 8 of Hindu Succession Act, 1956, as has been rightly observed by the learned District Judge.

23. Though, the Appellant had claimed that it was HUF or a joint family Property, but there was nothing on record to show that there was any coparcenary / HUF in existence. It is pertinent to note that the Suit Property, after demise of Sh. Malkhan Singh in 1999, had devolved upon his five sons. The other sons had executed a Relinquishment Deed dated 16.12.1998



in favour of Defendant No.1.

24. From the averments made in the Plaint as well as the documents, it is quite evident that the Suit Property is *the individual property of Defendant No.1. So being the case, the Plaintiff cannot claim a partition as a matter of right in this individual Property of his father / Defendant No.1 and that too, during his lifetime.*

25. Even otherwise, learned District Judge has rightly referred to the case of Sunny (Minor) vs. Raj Singh & Ors., MANIJ/DII/3560/2015, wherein following the Judgement of Yudhister vs. Ashok Kumar, (1987) 1 SCC 204 (*supra*), it has been held that after the enactment of Hindu Succession Act, the position which traditionally existed with respect to automatic right of a person in properties inherited from the parental predecessor in interest, up to three degrees, has come to an end. After passing of Hindu Succession Act, if a person after 1956 inherits the property from his parental ancestors, it cannot be termed as HUF and has to be taken as an individual Property of the person who inherits it. The only two exceptions recognised to this Rule are when the Property is exclusively put in the hotch-potch of HUF or if there was an HUF existing prior to 1956, which continued even after 1956 and the Property had been inherited by a person as member of HUF.

26. In the present case, it is clearly evident from the averments made in the Plaint itself as well as the documents annexed in the Appeal, that Sh. Malkhan Singh, the grandfather, had acquired individual interest in the suit Property, after the partition between him and his two brothers. On his demise, the Property came to his wife and sons, including the Defendant No.1, but they entered into a settlement and all other brothers executed the Relinquishment Deed in favour of Defendant No.1, whereby he became the



sole owner of the Suit Property. There is neither any HUF ever existing nor was there a joint family Property, for the Plaintiff to have claimed an inherited right in the Suit Property.

27. Therefore, learned District Judge has rightly rejected the Suit of the Plaintiff, as devoid of any cause of action.

28. There is no merit in the present Appeal, which is hereby, **dismissed**. The pending Applications are disposed of accordingly.

MARCH 18, 2026

NEENA BANSAL KRISHNA, J.